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CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 408

Introduced by Assembly Member Steinberg
(Coauthor: Senator Kuehl)

February 14, 2003

An act to amend Sections 349, 366, 366.1, 366.21, 366.22, 366.26, 366.3, 391, 10609.4, 16206, 16500.1, and 16501.1 of, and to add Section 362.05 to, the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 408, as amended, Steinberg. Dependent children.

(1) Existing law provides that children may become dependent children of the juvenile court on the basis of abuse or neglect. Existing law requires social workers and other specified persons or agencies to prepare social studies, reports, evaluations, assessments, and supplemental reports for the juvenile court containing specified information regarding children who are, or who may become, dependent children of the juvenile court. Existing law also requires county welfare departments to provide or arrange for permanent placement services for children who cannot safely live with their parents and are not likely to return to their own homes.

Existing law requires the court to review the status of every child in foster care at least every 6 months, to determine specified facts concerning the child, and to consider permanency planning options regarding a child who is in long-term foster care, as specified. Existing law also authorizes the court to terminate parental rights in certain cases. Existing law also requires social workers and the clerk of the court to send notice of hearings in the juvenile court concerning a child who is, or who may become, a dependent child of the court to that child if he or she is 10 years of age or older. Existing law further requires the county welfare department to submit a report at any hearing to terminate jurisdiction over a dependent child who has reached the age of majority, verifying that specified information and services have been provided to the dependent child.

This bill would require the court to determine whether the placing agency has made reasonable efforts to maintain a child's relationships with individuals who are important to a child who is 10 years of age or older who is placed with a nonrelative, and make any order to ensure that actions are taken to maintain those relationships. In specified circumstances, the bill would require social workers and certain agencies, as specified, to make efforts to identify those persons and to make efforts to maintain those relationships. If a court orders a hearing to terminate parental rights, the bill would require the court to make any appropriate order to enable the child to maintain those relationships. The bill would require social workers and those agencies to ask every child who is 10 years of age or older to identify those persons, consistent with the child's best interest. The bill would also authorize them to ask any child who is younger than 10 years of age to identify those persons. The bill would require that certain assessments include a description of efforts made to identify a prospective adoptive parent. By imposing new duties on local employees, the bill would create a state-mandated local program.

This bill would also revise the permanency planning options a court must consider regarding a child who is in foster care.

This bill would require that the notice of a hearing in the juvenile court that is sent to a child who is 10 years of age or older state that the child has the right to attend the hearing. The bill would also require the court to determine whether a minor who is 10 years of age or older and who is not present at the hearing was properly notified of his or her right to attend the hearing and to inquire as to the reason why the child is not present.



This bill would further require the county welfare department to provide information to a dependent child who has reached the age of majority on maintaining relationships with individuals who are important to the child, and to verify in the report submitted to the court that this information has been provided.

(2) Existing law encourages the development of approaches to child protection to achieve certain goals, including the goal of ensuring that children leaving the foster care system have support within their communities.

This bill would additionally require the state to encourage the development of approaches to child protection that ensure that no child leaves foster care without a lifelong connection to a committed adult. The bill would provide that every dependent child shall be entitled to participate in age appropriate extracurricular, enrichment, and social activities, and that state *and local* regulations and policies may not prevent or create barriers to participation in those activities. *The bill would also require state and local entities to ensure that private agencies that provide foster care services to dependent children promote and protect the ability of dependent children to participate in those activities.*

(3) Existing federal law establishes the Independent Living Program for foster youth to be administered by counties with federal and state funds.

Existing law requires each county department of social services to include in its annual Independent Living Program report an accounting of federal and state funds allocated for implementation of the program. Existing law provides that expenditures must be related to the specific purposes of the program and provides a descriptive list of the purposes the program may include. Those purposes include providing each participant in the program with a written transitional independent living plan that will be incorporated in his or her case plan.

This bill would revise the list of permissible program purposes to include convening persons who have been identified by the participant as important to him or her for the purpose of providing information to be included in his or her written transitional independent living plan.

(4) Existing law establishes the Child Welfare Training Program to provide training to meet the needs of county child protective *services* social workers.



This bill would require this training to include the importance of maintaining specified child relationships with important individuals and methods to identify those individuals.

(5) Existing law provides that the foundation and central unifying tool in child welfare services is the case plan, and specifies the contents thereof.

This bill would require a case plan for a child 16 years of age or older, when appropriate, to include a written description of programs and services to assist the child in independent living, and require the case plan to be developed with the child and other persons who are important to the child. The bill would also require specified case plans to contain information about individuals who are important to a child. The bill would require social workers to make an effort to identify those individuals.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 349 of the Welfare and Institutions
2 Code is amended to read:
3 349. A minor who is the subject of a juvenile court hearing
4 and any person entitled to notice of the hearing under the
5 provisions of Sections 290.1 and 290.2, is entitled to be present at
6 the hearing. The minor and any person who is entitled to that notice
7 has the right to be represented at the hearing by counsel of his or
8 her own choice. If the minor is 10 years of age or older and he or
9 she is not present at the hearing, the court shall determine whether



1 the minor was properly notified of his or her right to attend the
2 hearing.

3 SEC. 2. Section 362.05 is added to the Welfare and
4 Institutions Code, to read:

5 362.05. Every child adjudged a dependent child of the
6 juvenile court shall be entitled to participate in age appropriate
7 extracurricular, enrichment, and social activities. No state *or local*
8 regulation or policy may prevent or create barriers to participation
9 in those activities. *Each state and local entity shall ensure that*
10 *private agencies that provide foster care services to dependent*
11 *children have policies consistent with this section and that those*
12 *agencies promote and protect the ability of dependent children to*
13 *participate in age-appropriate extracurricular, enrichment, and*
14 *social activities.* Caregivers shall use a prudent parent standard in
15 determining whether to give permission for a child residing in
16 foster care to participate in extracurricular, enrichment, and social
17 activities. The caretaker shall take reasonable steps to determine
18 the appropriateness of the activity in consideration of the child's
19 age, maturity, and developmental level.

20 SEC. 3. Section 366 of the Welfare and Institutions Code is
21 amended to read:

22 366. (a) (1) The status of every dependent child in foster
23 care shall be reviewed periodically as determined by the court but
24 no less frequently than once every six months, as calculated from
25 the date of the original dispositional hearing, until the hearing
26 described in Section 366.26 is completed. The court shall consider
27 the safety of the child and shall determine all of the following:

28 (A) The continuing necessity for and appropriateness of the
29 placement.

30 (B) The extent of the agency's compliance with the case plan
31 in making reasonable efforts to return the child to a safe home and
32 to complete any steps necessary to finalize the permanent
33 placement of the child, including efforts to maintain relationships
34 between a child who is 10 years of age or older who is placed with
35 a nonrelative, and individuals other than the child's siblings who
36 are important to the child, consistent with the child's best interests.

37 (C) Whether there should be any limitation on the right of the
38 parent or guardian to make educational decisions for the child.
39 That limitation shall be specifically addressed in the court order
40 and may not exceed those necessary to protect the child. Whenever

1 the court specifically limits the right of the parent or guardian to
2 make educational decisions for the child, the court shall at the same
3 time appoint a responsible adult to make educational decisions for
4 the child pursuant to Section 361.

5 (D) (i) Whether the child has other siblings under the court's
6 jurisdiction, and, if any siblings exist, all of the following:

7 (I) The nature of the relationship between the child and his or
8 her siblings.

9 (II) The appropriateness of developing or maintaining the
10 sibling relationships pursuant to Section 16002.

11 (III) If the siblings are not placed together in the same home,
12 why the siblings are not placed together and what efforts are being
13 made to place the siblings together, or why those efforts are not
14 appropriate.

15 (IV) If the siblings are not placed together, the frequency and
16 nature of the visits between siblings.

17 (V) The impact of the sibling relationships on the child's
18 placement and planning for legal permanence.

19 (VI) The continuing need to suspend sibling interaction, if
20 applicable, pursuant to subdivision (c) of Section 16002.

21 (ii) The factors the court may consider in making a
22 determination regarding the nature of the child's sibling
23 relationships may include, but are not limited to, whether the
24 siblings were raised together in the same home, whether the
25 siblings have shared significant common experiences or have
26 existing close and strong bonds, whether either sibling expresses
27 a desire to visit or live with his or her sibling, as applicable, and
28 whether ongoing contact is in the child's best emotional interests.

29 (E) The extent of progress which has been made toward
30 alleviating or mitigating the causes necessitating placement in
31 foster care.

32 (2) The court shall project a likely date by which the child may
33 be returned to and safely maintained in the home or placed for
34 adoption, legal guardianship, or in another planned permanent
35 living arrangement.

36 (b) Subsequent to the hearing, periodic reviews of each child
37 in foster care shall be conducted pursuant to the requirements of
38 Sections 366.3 and 16503.

39 (c) If the child has been placed out of state, each review
40 described in subdivision (a) and any reviews conducted pursuant

1 to Sections 366.3 and 16503 shall also address whether the
2 out-of-state placement continues to be the most appropriate
3 placement selection and in the best interests of the child.

4 (d) A child may not be placed in an out-of-state group home,
5 or remain in an out-of-state group home, unless the group home is
6 in compliance with Section 7911.1 of the Family Code.

7 SEC. 4. Section 366.1 of the Welfare and Institutions Code is
8 amended to read:

9 366.1. Each supplemental report required to be filed pursuant
10 to Section 366 shall include, but not be limited to, a factual
11 discussion of each of the following subjects:

12 (a) Whether the county welfare department social worker has
13 considered child protective services, as defined in Chapter 5
14 (commencing with Section 16500) of Part 4 of Division 9, as a
15 possible solution to the problems at hand, and has offered those
16 services to qualified parents if appropriate under the
17 circumstances.

18 (b) What plan, if any, for the return and maintenance of the
19 child in a safe home is recommended to the court by the county
20 welfare department social worker.

21 (c) Whether the subject child appears to be a person who is
22 eligible to be considered for further court action to free the child
23 from parental custody and control.

24 (d) What actions, if any, have been taken by the parent to
25 correct the problems that caused the child to be made a dependent
26 child of the court.

27 (e) If the parent or guardian is unwilling or unable to participate
28 in making an educational decision for his or her child, or if other
29 circumstances exist that compromise the ability of the parent or
30 guardian to make educational decisions for the child, the county
31 welfare department or social worker shall consider whether the
32 right of the parent or guardian to make educational decisions for
33 the child should be limited. If the supplemental report makes that
34 recommendation, the report shall identify whether there is a
35 responsible adult available to make educational decisions for the
36 child pursuant to Section 361.

37 (f) (1) Whether the child has any siblings under the court's
38 jurisdiction, and, if any siblings exist, all of the following:

39 (A) The nature of the relationship between the child and his or
40 her siblings.

1 (B) The appropriateness of developing or maintaining the
2 sibling relationships pursuant to Section 16002.

3 (C) If the siblings are not placed together in the same home,
4 why the siblings are not placed together and what efforts are being
5 made to place the siblings together, or why those efforts are not
6 appropriate.

7 (D) If the siblings are not placed together, the frequency and
8 nature of the visits between siblings.

9 (E) The impact of the sibling relationships on the child's
10 placement and planning for legal permanence.

11 (2) The factual discussion shall include a discussion of
12 indicators of the nature of the child's sibling relationships,
13 including, but not limited to, whether the siblings were raised
14 together in the same home, whether the siblings have shared
15 significant common experiences or have existing close and strong
16 bonds, whether either sibling expresses a desire to visit or live with
17 his or her sibling, as applicable, and whether ongoing contact is in
18 the child's best emotional interests.

19 (g) Whether a child who is 10 years of age or older who is
20 placed with a nonrelative has relationships with individuals other
21 than the child's siblings that are important to the child, consistent
22 with the child's best interests, and actions taken to maintain those
23 relationships. The social worker shall ask every child who is 10
24 years of age or older who is placed with a nonrelative to identify
25 any individuals other than the child's siblings who are important
26 to the child, consistent with the child's best interest, and may ask
27 any child who is younger than 10 years of age to provide that
28 information, as appropriate. The social worker shall make efforts
29 to identify other individuals who are important to the child,
30 consistent with the child's best interests.

31 SEC. 5. Section 366.21 of the Welfare and Institutions Code
32 is amended to read:

33 366.21. (a) Every hearing conducted by the juvenile court
34 reviewing the status of a dependent child shall be placed on the
35 appearance calendar. The court shall advise all persons present at
36 the hearing of the date of the future hearing and of their right to be
37 present and represented by counsel.

38 (b) Except as provided in Section 366.23 and subdivision (a) of
39 Section 366.3, notice of the hearing shall be mailed by the social
40 worker to the same persons as in the original proceeding, including

1 the child, to the child's parent or legal guardian, to the foster
2 parents, relative caregivers, community care facility, or foster
3 family agency having physical custody of the child in the case of
4 a child removed from the physical custody of his or her parent or
5 legal guardian, and to the counsel of record if the counsel of record
6 was not present at the time that the hearing was set by the court,
7 by first-class mail addressed to the last known address of the
8 person to be notified, or shall be personally served on those
9 persons, not earlier than 30 days nor later than 15 days preceding
10 the date to which the hearing was continued. Service of a copy of
11 the notice personally or by certified mail, return receipt requested,
12 or any other form of actual notice, is equivalent to service by
13 first-class mail.

14 The notice shall contain a statement regarding the nature of the
15 hearing to be held and any change in the custody or status of the
16 child being recommended by the supervising agency. The notice
17 to the child shall state that the child has the right to attend and
18 participate in the hearing. The notice to the foster parent, relative
19 caregiver, or a certified foster parent who has been approved for
20 adoption by the State Department of Social Services when it is
21 acting as an adoption agency in counties that are not served by a
22 county adoption agency or by a licensed county adoption agency
23 shall indicate that the foster parent, relative caregiver, or a certified
24 foster parent who has been approved for adoption by the State
25 Department of Social Services when it is acting as an adoption
26 agency in counties that are not served by a county adoption agency
27 or by a licensed county adoption agency may attend all hearings
28 or may submit to the court in writing any information he or she
29 deems relevant.

30 (c) At least 10 calendar days prior to the hearing, the social
31 worker shall file a supplemental report with the court regarding the
32 services provided or offered to the parent or legal guardian to
33 enable him or her to assume custody and the efforts made to
34 achieve legal permanence for the child if efforts to reunify fail,
35 including, but not limited to, efforts to maintain relationships
36 between the child and individuals who are important to the child,
37 the progress made, and, where relevant, the prognosis for return
38 of the child to the physical custody of his or her parent or legal
39 guardian, and shall make his or her recommendation for
40 disposition. If the child is a member of a sibling group described



1 in paragraph (3) of subdivision (a) of Section 361.5, the report and
2 recommendation may also take into account those factors
3 described in subdivision (e) relating to the child's sibling group.
4 If the recommendation is not to return the child to a parent or legal
5 guardian, the report shall specify why the return of the child would
6 be detrimental to the child. The social worker shall provide the
7 parent or legal guardian and counsel for the child with a copy of
8 the report, including his or her recommendation for disposition, at
9 least 10 calendar days prior to the hearing. In the case of a child
10 removed from the physical custody of his or her parent or legal
11 guardian, the social worker shall, at least 10 calendar days prior to
12 the hearing, provide a summary of his or her recommendation for
13 disposition to any court-appointed child advocate, and any foster
14 parents, relative caregivers, certified foster parents who have been
15 approved for adoption by the State Department of Social Services
16 when it is acting as an adoption agency in counties that are not
17 served by a county adoption agency or by a licensed county
18 adoption agency, community care facility, or foster family agency
19 having the physical custody of the child.

20 (d) Prior to any hearing involving a child in the physical
21 custody of a community care facility or a foster family agency that
22 may result in the return of the child to the physical custody of his
23 or her parent or legal guardian, or in adoption or the creation of a
24 legal guardianship, the facility or agency shall file with the court
25 a report containing its recommendation for disposition. Prior to the
26 hearing involving a child in the physical custody of a foster parent,
27 a relative caregiver, or a certified foster parent who has been
28 approved for adoption by the State Department of Social Services
29 when it is acting as an adoption agency or by a licensed adoption
30 agency, the foster parent, relative caregiver, or the certified foster
31 parent who has been approved for adoption by the State
32 Department of Social Services when it is acting as an adoption
33 agency in counties that are not served by a county adoption agency
34 or by a licensed county adoption agency, may file with the court
35 a report containing his or her recommendation for disposition. The
36 court shall consider the report and recommendation filed pursuant
37 to this subdivision prior to determining any disposition.

38 (e) At the review hearing held six months after the initial
39 dispositional hearing, the court shall order the return of the child
40 to the physical custody of his or her parent or legal guardian unless

1 the court finds, by a preponderance of the evidence, that the return
2 of the child to his or her parent or legal guardian would create a
3 substantial risk of detriment to the safety, protection, or physical
4 or emotional well-being of the child. The social worker shall have
5 the burden of establishing that detriment. The failure of the parent
6 or legal guardian to participate regularly and make substantive
7 progress in court-ordered treatment programs shall be prima facie
8 evidence that return would be detrimental. In making its
9 determination, the court shall review and consider the social
10 worker's report and recommendations and the report and
11 recommendations of any child advocate appointed pursuant to
12 Section 356.5; and shall consider the efforts or progress, or both,
13 demonstrated by the parent or legal guardian and the extent to
14 which he or she availed himself or herself of services provided.

15 Whether or not the child is returned to a parent or legal guardian,
16 the court shall specify the factual basis for its conclusion that the
17 return would be detrimental or would not be detrimental. The court
18 also shall make appropriate findings pursuant to subdivision (a) of
19 Section 366; and, where relevant, shall order any additional
20 services reasonably believed to facilitate the return of the child to
21 the custody of his or her parent or legal guardian. The court shall
22 also inform the parent or legal guardian that if the child cannot be
23 returned home by the 12-month permanency hearing, a proceeding
24 pursuant to Section 366.26 may be instituted. This section does not
25 apply in a case where, pursuant to Section 361.5, the court has
26 ordered that reunification services shall not be provided.

27 If the child was under the age of three years on the date of the
28 initial removal, or is a member of a sibling group described in
29 paragraph (3) of subdivision (a) of Section 361.5, and the court
30 finds by clear and convincing evidence that the parent failed to
31 participate regularly and make substantive progress in a
32 court-ordered treatment plan, the court may schedule a hearing
33 pursuant to Section 366.26 within 120 days. If, however, the court
34 finds there is a substantial probability that the child, who was under
35 the age of three years on the date of initial removal or is a member
36 of a sibling group described in paragraph (3) of subdivision (a) of
37 Section 361.5, may be returned to his or her parent or legal
38 guardian within six months or that reasonable services have not
39 been provided, the court shall continue the case to the 12-month
40 permanency hearing.



1 For the purpose of placing and maintaining a sibling group
2 together in a permanent home, the court, in making its
3 determination to schedule a hearing pursuant to Section 366.26 for
4 some or all members of a sibling group, as described in paragraph
5 (3) of subdivision (a) of Section 361.5, shall review and consider
6 the social worker's report and recommendations. Factors the
7 report shall address, and the court shall consider, may include, but
8 need not be limited to, whether the sibling group was removed
9 from parental care as a group, the closeness and strength of the
10 sibling bond, the ages of the siblings, the appropriateness of
11 maintaining the sibling group together, the detriment to the child
12 if sibling ties are not maintained, the likelihood of finding a
13 permanent home for the sibling group, whether the sibling group
14 is currently placed together in a preadoptive home or has a
15 concurrent plan goal of legal permanency in the same home, the
16 wishes of each child whose age and physical and emotional
17 condition permits a meaningful response, and the best interest of
18 each child in the sibling group. The court shall specify the factual
19 basis for its finding that it is in the best interest of each child to
20 schedule a hearing pursuant to Section 366.26 in 120 days for some
21 or all of the members of the sibling group.

22 If the child was removed initially under subdivision (g) of
23 Section 300 and the court finds by clear and convincing evidence
24 that the whereabouts of the parent are still unknown, or the parent
25 has failed to contact and visit the child, the court may schedule a
26 hearing pursuant to Section 366.26 within 120 days. If the court
27 finds by clear and convincing evidence that the parent has been
28 convicted of a felony indicating parental unfitness, the court may
29 schedule a hearing pursuant to Section 366.26 within 120 days.

30 If the child had been placed under court supervision with a
31 previously noncustodial parent pursuant to Section 361.2, the
32 court shall determine whether supervision is still necessary. The
33 court may terminate supervision and transfer permanent custody
34 to that parent, as provided for by paragraph (1) of subdivision (b)
35 of Section 361.2.

36 In all other cases, the court shall direct that any reunification
37 services previously ordered shall continue to be offered to the
38 parent or legal guardian pursuant to the time periods set forth in
39 subdivision (a) of Section 361.5, provided that the court may
40 modify the terms and conditions of those services.



1 If the child is not returned to his or her parent or legal guardian,
2 the court shall determine whether reasonable services that were
3 designed to aid the parent or legal guardian in overcoming the
4 problems that led to the initial removal and the continued custody
5 of the child have been provided or offered to the parent or legal
6 guardian. The court shall order that those services be initiated,
7 continued, or terminated.

8 (f) The permanency hearing shall be held no later than 12
9 months after the date the child entered foster care, as that date is
10 determined pursuant to subdivision (a) of Section 361.5. At the
11 permanency hearing, the court shall determine the permanent plan
12 for the child, which shall include a determination of whether the
13 child will be returned to the child's home and, if so, when, within
14 the time limits of subdivision (a) of Section 361.5. The court shall
15 order the return of the child to the physical custody of his or her
16 parent or legal guardian unless the court finds, by a preponderance
17 of the evidence, that the return of the child to his or her parent or
18 legal guardian would create a substantial risk of detriment to the
19 safety, protection, or physical or emotional well-being of the child.
20 The social worker shall have the burden of establishing that
21 detriment. The court shall also determine whether reasonable
22 services that were designed to aid the parent or legal guardian to
23 overcome the problems that led to the initial removal and
24 continued custody of the child have been provided or offered to the
25 parent or legal guardian. For each youth 16 years of age and older,
26 the court shall also determine whether services have been made
27 available to assist him or her in making the transition from foster
28 care to independent living. The failure of the parent or legal
29 guardian to participate regularly and make substantive progress in
30 court-ordered treatment programs shall be prima facie evidence
31 that return would be detrimental. In making its determination, the
32 court shall review and consider the social worker's report and
33 recommendations and the report and recommendations of any
34 child advocate appointed pursuant to Section 356.5, shall consider
35 the efforts or progress, or both, demonstrated by the parent or legal
36 guardian and the extent to which he or she availed himself or
37 herself of services provided, and shall make appropriate findings
38 pursuant to subdivision (a) of Section 366.

39 Whether or not the child is returned to his or her parent or legal
40 guardian, the court shall specify the factual basis for its decision.

1 If the child is not returned to a parent or legal guardian, the court
2 shall specify the factual basis for its conclusion that the return
3 would be detrimental. The court also shall make a finding pursuant
4 to subdivision (a) of Section 366.

5 (g) If the time period in which the court-ordered services were
6 provided has met or exceeded the time period set forth in
7 paragraph (1), (2), or (3) of subdivision (a) of Section 361.5, as
8 appropriate, and a child is not returned to the custody of a parent
9 or legal guardian at the permanency hearing held pursuant to
10 subdivision (f), the court shall do one of the following:

11 (1) Continue the case for up to six months for a permanency
12 review hearing, provided that the hearing shall occur within 18
13 months of the date the child was originally taken from the physical
14 custody of his or her parent or legal guardian. The court shall
15 continue the case only if it finds that there is a substantial
16 probability that the child will be returned to the physical custody
17 of his or her parent or legal guardian and safely maintained in the
18 home within the extended period of time or that reasonable
19 services have not been provided to the parent or legal guardian. For
20 the purposes of this section, in order to find a substantial
21 probability that the child will be returned to the physical custody
22 of his or her parent or legal guardian and safely maintained in the
23 home within the extended period of time, the court shall be
24 required to find all of the following:

25 (A) That the parent or legal guardian has consistently and
26 regularly contacted and visited with the child.

27 (B) That the parent or legal guardian has made significant
28 progress in resolving problems that led to the child's removal from
29 the home.

30 (C) The parent or legal guardian has demonstrated the capacity
31 and ability both to complete the objectives of his or her treatment
32 plan and to provide for the child's safety, protection, physical and
33 emotional well-being, and special needs.

34 For purposes of this subdivision, the court's decision to continue
35 the case based on a finding or substantial probability that the child
36 will be returned to the physical custody of his or her parent or legal
37 guardian is a compelling reason for determining that a hearing held
38 pursuant to Section 366.26 is not in the best interests of the child.

39 The court shall inform the parent or legal guardian that if the
40 child cannot be returned home by the next permanency review

1 hearing, a proceeding pursuant to Section 366.36 may be
2 instituted. The court shall not order that a hearing pursuant to
3 Section 366.26 be held unless there is clear and convincing
4 evidence that reasonable services have been provided or offered to
5 the parent or legal guardian.

6 (2) Order that a hearing be held within 120 days, pursuant to
7 Section 366.26, but only if the court does not continue the case to
8 the permanency planning review hearing and there is clear and
9 convincing evidence that reasonable services have been provided
10 or offered to the parents or legal guardians.

11 (3) Order that the child remain in long-term foster care, but
12 only if the court finds by clear and convincing evidence, based
13 upon the evidence already presented to it, including a
14 recommendation by the State Department of Social Services when
15 it is acting as an adoption agency in counties that are not served by
16 a county adoption agency or by a licensed county adoption agency,
17 that there is a compelling reason for determining that a hearing
18 held pursuant to Section 366.26 is not in the best interest of the
19 child because the child is not a proper subject for adoption and has
20 no one willing to accept legal guardianship. For purposes of this
21 section, a recommendation by the State Department of Social
22 Services when it is acting as an adoption agency in counties that
23 are not served by a county adoption agency or by a licensed county
24 adoption agency that adoption is not in the best interest of the child
25 shall constitute a compelling reason for the court's determination.
26 That recommendation shall be based on the present circumstances
27 of the child and shall not preclude a different recommendation at
28 a later date if the child's circumstances change.

29 If the court orders that a child who is 10 years of age or older
30 remain in long-term foster care with a nonrelative, the court shall
31 determine whether the agency has made reasonable efforts to
32 maintain the child's relationships with individuals other than the
33 child's siblings who are important to the child, consistent with the
34 child's best interests, and may make any appropriate order to
35 ensure that those relationships are maintained.

36 (h) In any case in which the court orders that a hearing pursuant
37 to Section 366.26 shall be held, it shall also order the termination
38 of reunification services to the parent or legal guardian. The court
39 shall continue to permit the parent or legal guardian to visit the
40 child pending the hearing unless it finds that visitation would be

1 detrimental to the child. The court shall make any other
2 appropriate orders to enable the child to maintain relationships
3 with other individuals who are important to the child.

4 (i) Whenever a court orders that a hearing pursuant to Section
5 366.26 shall be held, it shall direct the agency supervising the child
6 and the licensed county adoption agency, or the State Department
7 of Social Services when it is acting as an adoption agency in
8 counties that are not served by a county adoption agency, to
9 prepare an assessment that shall include:

10 (1) Current search efforts for an absent parent or parents or
11 legal guardians.

12 (2) A review of the amount of and nature of any contact
13 between the child and his or her parents or legal guardians and
14 other members of his or her extended family since the time of
15 placement. Although the extended family of each child shall be
16 reviewed on a case-by-case basis, “extended family” for the
17 purpose of this paragraph shall include, but not be limited to, the
18 child’s siblings, grandparents, aunts, and uncles.

19 (3) An evaluation of the child’s medical, developmental,
20 scholastic, mental, and emotional status.

21 (4) A preliminary assessment of the eligibility and
22 commitment of any identified prospective adoptive parent or legal
23 guardian, particularly the caretaker, to include a social history
24 including screening for criminal records and prior referrals for
25 child abuse or neglect, the capability to meet the child’s needs, and
26 the understanding of the legal and financial rights and
27 responsibilities of adoption and guardianship. If a proposed
28 guardian is a relative of the minor, and the relative was assessed
29 for foster care placement of the minor prior to January 1, 1998, the
30 assessment shall also consider, but need not be limited to, all of the
31 factors specified in subdivision (a) of Section 361.3.

32 (5) The relationship of the child to any identified prospective
33 adoptive parent or legal guardian, the duration and character of the
34 relationship, the motivation for seeking adoption or guardianship,
35 and a statement from the child concerning placement and the
36 adoption or guardianship, unless the child’s age or physical,
37 emotional, or other condition precludes his or her meaningful
38 response, and if so, a description of the condition.



(6) A description of efforts to be made to identify a prospective adoptive parent or legal guardian, including, but not limited to, child specific recruitment and listing on an adoption exchange.

(7) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(j) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with a relative, and juvenile court dependency is subsequently dismissed, the relative shall be eligible for aid under the Kin-GAP program as provided in Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9.

(k) As used in this section, “relative” means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(l) For purposes of this section, evidence of any of the following circumstances shall not, in and of itself, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(2) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(3) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

SEC. 6. Section 366.22 of the Welfare and Institutions Code is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment.

1 The failure of the parent or legal guardian to participate regularly
2 and make substantive progress in court-ordered treatment
3 programs shall be prima facie evidence that return would be
4 detrimental. In making its determination, the court shall review
5 and consider the social worker's report and recommendations and
6 the report and recommendations of any child advocate appointed
7 pursuant to Section 356.5; shall consider the efforts or progress,
8 or both, demonstrated by the parent or legal guardian and the
9 extent to which he or she availed himself or herself of services
10 provided; and shall make appropriate findings pursuant to
11 subdivision (a) of Section 366.

12 Whether or not the child is returned to his or her parent or legal
13 guardian, the court shall specify the factual basis for its decision.
14 If the child is not returned to a parent or legal guardian, the court
15 shall specify the factual basis for its conclusion that return would
16 be detrimental.

17 If the child is not returned to a parent or legal guardian at the
18 permanency review hearing, the court shall order that a hearing be
19 held pursuant to Section 366.26 in order to determine whether
20 adoption, guardianship, or long-term foster care is the most
21 appropriate plan for the child. However, if the court finds by clear
22 and convincing evidence, based on the evidence already presented
23 to it, including a recommendation by the State Department of
24 Social Services when it is acting as an adoption agency in counties
25 that are not served by a county adoption agency or by a licensed
26 county adoption agency, that there is a compelling reason, as
27 described in paragraph (2) of subdivision (g) of Section 366.21, for
28 determining that a hearing held under Section 366.26 is not in the
29 best interest of the child because the child is not a proper subject
30 for adoption and has no one willing to accept legal guardianship,
31 then the court may, only under these circumstances, order that the
32 child remain in foster care. If the court orders that a child who is
33 10 years of age or older remain in long-term foster care with a
34 nonrelative, the court shall determine whether the agency has
35 made reasonable efforts to maintain the child's relationships with
36 individuals other than the child's siblings who are important to the
37 child, consistent with the child's best interests, and may make any
38 appropriate order to ensure that those relationships are maintained.
39 The hearing shall be held no later than 120 days from the date of
40 the permanency review hearing. The court shall also order

1 termination of reunification services to the parent or legal
2 guardian. The court shall continue to permit the parent or legal
3 guardian to visit the child unless it finds that visitation would be
4 detrimental to the child. The court shall determine whether
5 reasonable services have been offered or provided to the parent or
6 legal guardian. For purposes of this subdivision, evidence of any
7 of the following circumstances shall not, in and of themselves, be
8 deemed a failure to provide or offer reasonable services:

9 (1) The child has been placed with a foster family that is
10 eligible to adopt a child, or has been placed in a preadoptive home.

11 (2) The case plan includes services to make and finalize a
12 permanent placement for the child if efforts to reunify fail.

13 (3) Services to make and finalize a permanent placement for
14 the child, if efforts to reunify fail, are provided concurrently with
15 services to reunify the family.

16 (b) Whenever a court orders that a hearing pursuant to Section
17 366.26 shall be held, it shall direct the agency supervising the child
18 and the licensed county adoption agency, or the State Department
19 of Social Services when it is acting as an adoption agency in
20 counties that are not served by a county adoption agency, to
21 prepare an assessment that shall include:

22 (1) Current search efforts for an absent parent or parents.

23 (2) A review of the amount of and nature of any contact
24 between the child and his or her parents and other members of his
25 or her extended family since the time of placement. Although the
26 extended family of each child shall be reviewed on a case-by-case
27 basis, “extended family” for the purposes of this paragraph shall
28 include, but not be limited to, the child’s siblings, grandparents,
29 aunts, and uncles.

30 (3) An evaluation of the child’s medical, developmental,
31 scholastic, mental, and emotional status.

32 (4) A preliminary assessment of the eligibility and
33 commitment of any identified prospective adoptive parent or legal
34 guardian, particularly the caretaker, to include a social history
35 including screening for criminal records and prior referrals for
36 child abuse or neglect, the capability to meet the child’s needs, and
37 the understanding of the legal and financial rights and
38 responsibilities of adoption and guardianship. If a proposed legal
39 guardian is a relative of the minor, and the relative was assessed
40 for foster care placement of the minor prior to January 1, 1998, the

1 assessment shall also consider, but need not be limited to, all of the
2 factors specified in subdivision (a) of Section 361.3.

3 (5) The relationship of the child to any identified prospective
4 adoptive parent or legal guardian, the duration and character of the
5 relationship, the motivation for seeking adoption or legal
6 guardianship, and a statement from the child concerning
7 placement and the adoption or legal guardianship, unless the
8 child's age or physical, emotional, or other condition precludes his
9 or her meaningful response, and if so, a description of the
10 condition.

11 (6) An analysis of the likelihood that the child will be adopted
12 if parental rights are terminated.

13 (c) This section shall become operative January 1, 1999. If at
14 any hearing held pursuant to Section 366.26, a legal guardianship
15 is established for the minor with a relative, and juvenile court
16 dependency is subsequently dismissed, the relative shall be
17 eligible for aid under the Kin-GAP program as provided in Article
18 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of
19 Division 9.

20 (d) As used in this section, "relative" means an adult who is
21 related to the child by blood, adoption, or affinity within the fifth
22 degree of kinship, including stepparents, stepsiblings, and all
23 relatives whose status is preceded by the words "great,"
24 "great-great," or "grand," or the spouse of any of those persons
25 even if the marriage was terminated by death or dissolution.

26 SEC. 7. Section 366.26 of the Welfare and Institutions Code
27 is amended to read:

28 366.26. (a) This section applies to children who are adjudged
29 dependent children of the juvenile court pursuant to subdivision
30 (c) of Section 360. The procedures specified herein are the
31 exclusive procedures for conducting these hearings; Part 2
32 (commencing with Section 3020) of Division 8 of the Family Code
33 is not applicable to these proceedings. Section 8714.7 of the
34 Family Code is applicable and available to all dependent children
35 meeting the requirements of that section, if the postadoption
36 contact agreement has been entered into voluntarily. For children
37 who are adjudged dependent children of the juvenile court
38 pursuant to subdivision (c) of Section 360, this section and
39 Sections 8604, 8605, 8606, and 8700 of the Family Code and
40 Chapter 5 (commencing with Section 7660) of Part 3 of Division

1 12 of the Family Code specify the exclusive procedures for
2 permanently terminating parental rights with regard to, or
3 establishing legal guardianship of, the child while the child is a
4 dependent child of the juvenile court.

5 (b) At the hearing, that shall be held in juvenile court for all
6 children who are dependents of the juvenile court, the court, in
7 order to provide stable, permanent homes for these children, shall
8 review the report as specified in Section 361.5, 366.21, or 366.22,
9 shall indicate that the court has read and considered it, shall receive
10 other evidence that the parties may present, and then shall make
11 findings and orders in the following order of preference:

12 (1) Terminate the rights of the parent or parents and order that
13 the child be placed for adoption and, upon the filing of a petition
14 for adoption in the juvenile court, order that a hearing be set. The
15 court shall proceed with the adoption after the appellate rights of
16 the natural parents have been exhausted.

17 (2) On making a finding under paragraph (3) of subdivision (c),
18 identify adoption as the permanent placement goal and order that
19 efforts be made to locate an appropriate adoptive family for the
20 child within a period not to exceed 180 days.

21 (3) Appoint a legal guardian for the child and order that letters
22 of guardianship issue.

23 (4) Order that the child be placed in long-term foster care,
24 subject to the periodic review of the juvenile court under Section
25 366.3.

26 In choosing among the above alternatives the court shall
27 proceed pursuant to subdivision (c).

28 (c) (1) If the court determines, based on the assessment
29 provided as ordered under subdivision (i) of Section 366.21 or
30 subdivision (b) of Section 366.22, and any other relevant
31 evidence, by a clear and convincing standard, that it is likely the
32 child will be adopted, the court shall terminate parental rights and
33 order the child placed for adoption. The fact that the child is not
34 yet placed in a preadoptive home nor with a relative or foster
35 family who is prepared to adopt the child, shall not constitute a
36 basis for the court to conclude that it is not likely the child will be
37 adopted. A finding under subdivision (b) or paragraph (1) of
38 subdivision (e) of Section 361.5 that reunification services shall
39 not be offered, under subdivision (e) of Section 366.21 that the
40 whereabouts of a parent have been unknown for six months or that

1 the parent has failed to visit or contact the child for six months or
2 that the parent has been convicted of a felony indicating parental
3 unfitness, or, under Section 366.21 or 366.22, that the court has
4 continued to remove the child from the custody of the parent or
5 guardian and has terminated reunification services, shall
6 constitute a sufficient basis for termination of parental rights
7 unless the court finds a compelling reason for determining that
8 termination would be detrimental to the child due to one or more
9 of the following circumstances:

10 (A) The parents or guardians have maintained regular
11 visitation and contact with the child and the child would benefit
12 from continuing the relationship.

13 (B) A child 12 years of age or older objects to termination of
14 parental rights.

15 (C) The child is placed in a residential treatment facility,
16 adoption is unlikely or undesirable, and continuation of parental
17 rights will not prevent finding the child a permanent family
18 placement if the parents cannot resume custody when residential
19 care is no longer needed.

20 (D) The child is living with a relative or foster parent who is
21 unable or unwilling to adopt the child because of exceptional
22 circumstances, that do not include an unwillingness to accept legal
23 or financial responsibility for the child, but who is willing and
24 capable of providing the child with a stable and permanent
25 environment and the removal of the child from the physical
26 custody of his or her relative or foster parent would be detrimental
27 to the emotional well-being of the child. This subparagraph does
28 not apply to any child who is living with a nonrelative and who is
29 either (i) under six years of age or (ii) a member of a sibling group
30 where at least one child is under six years of age and the siblings
31 are, or should be, permanently placed together.

32 (E) There would be substantial interference with a child's
33 sibling relationship, taking into consideration the nature and
34 extent of the relationship, including, but not limited to, whether the
35 child was raised with a sibling in the same home, whether the child
36 shared significant common experiences or has existing close and
37 strong bonds with a sibling, and whether ongoing contact is in the
38 child's best interest, including the child's long-term emotional
39 interest, as compared to the benefit of legal permanence through
40 adoption.

1 If the court finds that termination of parental rights would be
2 detrimental to the child pursuant to subparagraph (A), (B), (C),
3 (D), or (E), it shall state its reasons in writing or on the record.

4 (2) The court shall not terminate parental rights if at each and
5 every hearing at which the court was required to consider
6 reasonable efforts or services, the court has found that reasonable
7 efforts were not made or that reasonable services were not offered
8 or provided.

9 (3) If the court finds that termination of parental rights would
10 not be detrimental to the child pursuant to paragraph (1) and that
11 the child has a probability for adoption but is difficult to place for
12 adoption and there is no identified or available prospective
13 adoptive parent, the court may identify adoption as the permanent
14 placement goal and without terminating parental rights, order that
15 efforts be made to locate an appropriate adoptive family for the
16 child within a period not to exceed 180 days. During this 180-day
17 period, the public agency responsible for seeking adoptive parents
18 for each child shall, to the extent possible, ask each child who is
19 10 years of age or older to identify any individuals who are
20 important to the child, to identify potential adoptive parents. The
21 public agency may ask any child who is younger than 10 years of
22 age to provide that information, as appropriate. During the
23 180-day period, the public agency shall, to the extent possible,
24 contact other private and public adoption agencies regarding the
25 availability of the child for adoption. During the 180-day period,
26 the public agency shall conduct the search for adoptive parents in
27 the same manner as prescribed for children in Sections 8708 and
28 8709 of the Family Code. At the expiration of this period, another
29 hearing shall be held and the court shall proceed pursuant to
30 paragraph (1), (3), or (4) of subdivision (b). For purposes of this
31 section, a child may only be found to be difficult to place for
32 adoption if there is no identified or available prospective adoptive
33 parent for the child because of the child's membership in a sibling
34 group, or the presence of a diagnosed medical, physical, or mental
35 handicap, or the child is the age of seven years or more.

36 (4) If the court finds that adoption of the child or termination
37 of parental rights is not in the best interest of the child, because one
38 of the conditions in subparagraph (A), (B), (C), (D) or (E) of
39 paragraph (1) or in paragraph (2) applies, the court shall either
40 order that the present caretakers or other appropriate persons shall

1 become legal guardians of the child or order that the child remain
2 in long-term foster care. Legal guardianship shall be considered
3 before long-term foster care, if it is in the best interests of the child
4 and if a suitable guardian can be found. A child who is 10 years of
5 age or older who is not placed with a relative shall be asked to
6 identify any individuals who are important to the child to identify
7 potential guardians. The agency may ask any child who is younger
8 than 10 years of age to provide that information, as appropriate.
9 When the child is living with a relative or a foster parent who is
10 willing and capable of providing a stable and permanent
11 environment, but not willing to become a legal guardian, the child
12 shall not be removed from the home if the court finds the removal
13 would be seriously detrimental to the emotional well-being of the
14 child because the child has substantial psychological ties to the
15 relative caretaker or foster parents. The court shall also make an
16 order for visitation with the parents or guardians unless the court
17 finds by a preponderance of the evidence that the visitation would
18 be detrimental to the physical or emotional well-being of the child.
19 (5) If the court finds that the child should not be placed for
20 adoption, that legal guardianship shall not be established, and that
21 there are no suitable foster parents except exclusive-use homes
22 available to provide the child with a stable and permanent
23 environment, the court may order the care, custody, and control of
24 the child transferred from the county welfare department to a
25 licensed foster family agency. The court shall consider the written
26 recommendation of the county welfare director regarding the
27 suitability of the transfer. The transfer shall be subject to further
28 court orders.
29 The licensed foster family agency shall place the child in a
30 suitable licensed or exclusive-use home which has been certified
31 by the agency as meeting licensing standards. The licensed foster
32 family agency shall be responsible for supporting the child and for
33 providing appropriate services to the child, including those
34 services ordered by the court. Responsibility for the support of the
35 child shall not, in and of itself, create liability on the part of the
36 foster family agency to third persons injured by the child. Those
37 children whose care, custody, and control are transferred to a foster
38 family agency shall not be eligible for foster care maintenance
39 payments or child welfare services, except for emergency
40 response services pursuant to Section 16504.



1 (d) The proceeding for the appointment of a guardian for a
2 child who is a dependent of the juvenile court shall be in the
3 juvenile court. If the court finds pursuant to this section that legal
4 guardianship is the appropriate permanent plan, it shall appoint the
5 legal guardian and issue letters of guardianship. The assessment
6 prepared pursuant to subdivision (g) of Section 361.5, subdivision
7 (i) of Section 366.21, and subdivision (b) of Section 366.22 shall
8 be read and considered by the court prior to the appointment, and
9 this shall be reflected in the minutes of the court. The person
10 preparing the assessment may be called and examined by any party
11 to the proceeding.

12 (e) The proceeding for the adoption of a child who is a
13 dependent of the juvenile court shall be in the juvenile court if the
14 court finds pursuant to this section that adoption is the appropriate
15 permanent plan and the petition for adoption is filed in the juvenile
16 court. Upon the filing of a petition for adoption, the juvenile court
17 shall order that an adoption hearing be set. The court shall proceed
18 with the adoption after the appellate rights of the natural parents
19 have been exhausted. The full report required by Section 8715 of
20 the Family Code shall be read and considered by the court prior to
21 the adoption and this shall be reflected in the minutes of the court.
22 The person preparing the report may be called and examined by
23 any party to the proceeding. It is the intent of the Legislature,
24 pursuant to this subdivision, to give potential adoptive parents the
25 option of filing in the juvenile court the petition for the adoption
26 of a child who is a dependent of the juvenile court. Nothing in this
27 section is intended to prevent the filing of a petition for adoption
28 in any other court as permitted by law, instead of in the juvenile
29 court.

30 (f) At the beginning of any proceeding pursuant to this section,
31 if the child or the parents are not being represented by previously
32 retained or appointed counsel, the court shall proceed as follows:

33 (1) The court shall consider whether the interests of the child
34 require the appointment of counsel. If the court finds that the
35 interests of the child do require this protection, the court shall
36 appoint counsel to represent the child. If the court finds that the
37 interests of the child require the representation of counsel, counsel
38 shall be appointed whether or not the child is able to afford
39 counsel. A child under 10 years of age may not be present in court

1 unless the child or the child's counsel so requests or the court so
2 orders.

3 (2) If a parent appears without counsel and is unable to afford
4 counsel, the court shall appoint counsel for the parent, unless this
5 representation is knowingly and intelligently waived. The same
6 counsel shall not be appointed to represent both the child and his
7 or her parent. The public defender or private counsel may be
8 appointed as counsel for the parent.

9 (3) Private counsel appointed under this section shall receive a
10 reasonable sum for compensation and expenses, the amount of
11 which shall be determined by the court. The amount shall be paid
12 by the real parties in interest, other than the child, in any
13 proportions the court deems just. However, if the court finds that
14 any of the real parties in interest are unable to afford counsel, the
15 amount shall be paid out of the general fund of the county.

16 (g) The court may continue the proceeding for not to exceed 30
17 days as necessary to appoint counsel, and to enable counsel to
18 become acquainted with the case.

19 (h) (1) At all proceedings under this section, the court shall
20 consider the wishes of the child and shall act in the best interests
21 of the child.

22 (2) If the child is 10 years of age or older and is not present at
23 a hearing held pursuant to this section, the court shall determine
24 whether the minor was properly notified of his or her right to attend
25 the hearing and inquire as to the reason why the child is not present.

26 (3) (A) The testimony of the child may be taken in chambers
27 and outside the presence of the child's parent or parents if the
28 child's parent or parents are represented by counsel, the counsel is
29 present, and any of the following circumstances exist:

30 (i) The court determines that testimony in chambers is
31 necessary to ensure truthful testimony.

32 (ii) The child is likely to be intimidated by a formal courtroom
33 setting.

34 (iii) The child is afraid to testify in front of his or her parent or
35 parents.

36 (B) After testimony in chambers, the parent or parents of the
37 child may elect to have the court reporter read back the testimony
38 or have the testimony summarized by counsel for the parent or
39 parents.



1 (C) The testimony of a child also may be taken in chambers and
2 outside the presence of the guardian or guardians of a child under
3 the circumstances specified in this subdivision.

4 (i) Any order of the court permanently terminating parental
5 rights under this section shall be conclusive and binding upon the
6 child, upon the parent or parents and upon all other persons who
7 have been served with citation by publication or otherwise as
8 provided in this chapter. After making the order, the court shall
9 have no power to set aside, change, or modify it, but nothing in this
10 section shall be construed to limit the right to appeal the order.

11 (j) If the court, by order or judgment declares the child free
12 from the custody and control of both parents, or one parent if the
13 other does not have custody and control, the court shall at the same
14 time order the child referred to the State Department of Social
15 Services or a licensed adoption agency for adoptive placement by
16 the agency. However, no petition for adoption may be granted until
17 the appellate rights of the natural parents have been exhausted. The
18 State Department of Social Services or licensed adoption agency
19 shall be responsible for the custody and supervision of the child
20 and shall be entitled to the exclusive care and control of the child
21 at all times until a petition for adoption is granted. With the consent
22 of the agency, the court may appoint a guardian of the child, who
23 shall serve until the child is adopted.

24 (k) Notwithstanding any other provision of law, the application
25 of any person who, as a relative caretaker or foster parent, has
26 cared for a dependent child for whom the court has approved a
27 permanent plan for adoption, or who has been freed for adoption,
28 shall be given preference with respect to that child over all other
29 applications for adoptive placement if the agency making the
30 placement determines that the child has substantial emotional ties
31 to the relative caretaker or foster parent and removal from the
32 relative caretaker or foster parent would be seriously detrimental
33 to the child's emotional well-being.

34 As used in this subdivision, "preference" means that the
35 application shall be processed and, if satisfactory, the family study
36 shall be completed before the processing of the application of any
37 other person for the adoptive placement of the child.

38 (l) (1) An order by the court that a hearing pursuant to this
39 section be held is not appealable at any time unless all of the
40 following applies:

1 (A) A petition for extraordinary writ review was filed in a
2 timely manner.

3 (B) The petition substantively addressed the specific issues to
4 be challenged and supported that challenge by an adequate record.

5 (C) The petition for extraordinary writ review was summarily
6 denied or otherwise not decided on the merits.

7 (2) Failure to file a petition for extraordinary writ review
8 within the period specified by rule, to substantively address the
9 specific issues challenged, or to support that challenge by an
10 adequate record shall preclude subsequent review by appeal of the
11 findings and orders made pursuant to this section.

12 (3) The Judicial Council shall adopt rules of court, effective
13 January 1, 1995, to ensure all of the following:

14 (A) A trial court, after issuance of an order directing a hearing
15 pursuant to this section be held, shall advise all parties of the
16 requirement of filing a petition for extraordinary writ review as set
17 forth in this subdivision in order to preserve any right to appeal in
18 these issues. This notice shall be made orally to a party if they are
19 present at the time of the making of the order or by first-class mail
20 by the clerk of the court to the last known address of a party not
21 present at the time of the making of the order.

22 (B) The prompt transmittal of the records from the trial court
23 to the appellate court.

24 (C) That adequate time requirements for counsel and court
25 personnel exist to implement the objective of this subdivision.

26 (D) That the parent or guardian, or their trial counsel or other
27 counsel, is charged with the responsibility of filing a petition for
28 extraordinary writ relief pursuant to this subdivision.

29 (4) The intent of this subdivision is to do both of the following:

30 (A) Make every reasonable attempt to achieve a substantive
31 and meritorious review by the appellate court within the time
32 specified in Sections 366.21 and 366.22 for holding a hearing
33 pursuant to this section.

34 (B) Encourage the appellate court to determine all writ
35 petitions filed pursuant to this subdivision on their merits.

36 (5) This subdivision shall only apply to cases in which an order
37 to set a hearing pursuant to this section is issued on or after January
38 1, 1995.

39 (m) Except for subdivision (j), this section shall also apply to
40 minors adjudged wards pursuant to Section 727.31.

1 SEC. 8. Section 366.3 of the Welfare and Institutions Code is
2 amended to read:

3 366.3. (a) If a juvenile court orders a permanent plan of
4 adoption or legal guardianship pursuant to Section 360 or 366.26,
5 the court shall retain jurisdiction over the child until the child is
6 adopted or the legal guardianship is established, except as
7 provided for in Section 366.29. The status of the child shall be
8 reviewed every six months to ensure that the adoption or legal
9 guardianship is completed as expeditiously as possible. When the
10 adoption of the child has been granted, the court shall terminate its
11 jurisdiction over the child. Following establishment of a legal
12 guardianship, the court may continue jurisdiction over the child as
13 a dependent child of the juvenile court or may terminate its
14 dependency jurisdiction and retain jurisdiction over the child as a
15 ward of the legal guardianship, as authorized by Section 366.4. If,
16 however, a relative of the child is appointed the legal guardian of
17 the child and the child has been placed with the relative for at least
18 12 months, the court shall, except if the relative guardian objects,
19 or upon a finding of exceptional circumstances, terminate its
20 dependency jurisdiction and retain jurisdiction over the child as a
21 ward of the guardianship, as authorized by Section 366.4.
22 Following a termination of parental rights the parent or parents
23 shall not be a party to, or receive notice of, any subsequent
24 proceedings regarding the child.

25 (b) If the court has dismissed dependency jurisdiction
26 following the establishment of a legal guardianship, or no
27 dependency jurisdiction attached because of the granting of a legal
28 guardianship pursuant to Section 360, and the legal guardianship
29 is subsequently revoked or otherwise terminated, the county
30 department of social services or welfare department shall notify
31 the juvenile court of this fact. The court may vacate its previous
32 order dismissing dependency jurisdiction over the child.

33 Notwithstanding Section 1601 of the Probate Code, the
34 proceedings to terminate a legal guardianship that has been
35 granted pursuant to Section 360 or 366.26 shall be held in the
36 juvenile court, unless the termination is due to the emancipation
37 or adoption of the child. Prior to the hearing on a petition to
38 terminate legal guardianship pursuant to this paragraph, the court
39 shall order the county department of social services or welfare
40 department to prepare a report, for the court's consideration, that

1 shall include an evaluation of whether the child could safely
2 remain in the legal guardian's home, without terminating the legal
3 guardianship, if services were provided to the child or legal
4 guardian. If applicable, the report shall also identify recommended
5 services to maintain the legal guardianship and set forth a plan for
6 providing those services. If the petition to terminate legal
7 guardianship is granted, the juvenile court may resume
8 dependency jurisdiction over the child, and may order the county
9 department of social services or welfare department to develop a
10 new permanent plan, which shall be presented to the court within
11 60 days of the termination. If no dependency jurisdiction has
12 attached, the social worker shall make any investigation he or she
13 deems necessary to determine whether the child may be within the
14 jurisdiction of the juvenile court, as provided in Section 328.

15 Unless the parental rights of the child's parent or parents have
16 been terminated, they shall be notified that the legal guardianship
17 has been revoked or terminated and shall be entitled to participate
18 in the new permanency planning hearing. The court shall try to
19 place the child in another permanent placement. At the hearing, the
20 parents may be considered as custodians but the child shall not be
21 returned to the parent or parents unless they prove, by a
22 preponderance of the evidence, that reunification is the best
23 alternative for the child. The court may, if it is in the best interests
24 of the child, order that reunification services again be provided to
25 the parent or parents.

26 (c) If, following the establishment of a legal guardianship, the
27 county welfare department becomes aware of changed
28 circumstances that indicate adoption may be an appropriate plan
29 for the child, the department shall so notify the court. The court
30 may vacate its previous order dismissing dependency jurisdiction
31 over the child and order that a hearing be held pursuant to Section
32 366.26 to determine whether adoption or continued legal
33 guardianship is the most appropriate plan for the child. The
34 hearing shall be held no later than 120 days from the date of the
35 order. If the court orders that a hearing shall be held pursuant to
36 Section 366.26, the court shall direct the agency supervising the
37 child and the licensed county adoption agency, or the State
38 Department of Social Services if it is acting as an adoption agency
39 in counties that are not served by a county adoption agency, to
40 prepare an assessment under subdivision (b) of Section 366.22.



(d) If the child is in a placement other than the home of a legal guardian and jurisdiction has not been dismissed, the status of the child shall be reviewed at least every six months. The review of the status of a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption shall be conducted by the court. The review of the status of a child for whom the court has not ordered parental rights terminated and who has not been ordered placed for adoption may be conducted by the court or an appropriate local agency. The court shall conduct the review under the following circumstances:

(1) Upon the request of the child's parents or legal guardians.

(2) Upon the request of the child.

(3) It has been 12 months since a hearing held pursuant to Section 366.26 or an order that the child remain in long-term foster care pursuant to Section 366.21, 366.22, 366.26, or subdivision (g).

(4) It has been 12 months since a review was conducted by the court.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

(e) Except as provided in subdivision (f), at the review held every six months pursuant to subdivision (d), the reviewing body shall inquire about the progress being made to provide a permanent home for the child, shall consider the safety of the child, and shall determine all of the following:

(1) The continuing necessity for and appropriateness of the placement.

(2) Identification of individuals other than the child's siblings who are important to a child who is 10 years of age or older who is not placed with a relative, and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The social worker shall ask every child who is 10 years of age or older who is not placed with a relative to identify individuals other than the child's siblings who are important to the child, and may ask any child who is younger than 10 years of age to provide that information, as appropriate. The social worker shall make efforts to identify other individuals who are important to the child, consistent with the child's best interests.

1 (3) The continuing appropriateness and extent of compliance
2 with the permanent plan for the child, including efforts to maintain
3 relationships between the child and individuals who are important
4 to the child and efforts to identify a prospective adoptive parent or
5 legal guardian, including, but not limited to, child specific
6 recruitment efforts and listing on an adoption exchange.

7 (4) The extent of the agency's compliance with the child
8 welfare services case plan in making reasonable efforts to return
9 the child to a safe home and to complete whatever steps are
10 necessary to finalize the permanent placement of the child.

11 (5) Whether there should be any limitation on the right of the
12 parent or guardian to make educational decisions for the child.
13 That limitation shall be specifically addressed in the court order
14 and may not exceed what is necessary to protect the child. If the
15 court specifically limits the right of the parent or guardian to make
16 educational decisions for the child, the court shall at the same time
17 appoint a responsible adult to make educational decisions for the
18 child pursuant to Section 361.

19 (6) The adequacy of services provided to the child. The court
20 shall consider the progress in providing the information and
21 documents to the child, as described in Section 391. The court shall
22 also consider the need for, and progress in providing, the assistance
23 and services described in paragraphs (3) and (4) of subdivision (b)
24 of Section 391.

25 (7) The extent of progress the parents or legal guardians have
26 made toward alleviating or mitigating the causes necessitating
27 placement in foster care.

28 (8) The likely date by which the child may be returned to and
29 safely maintained in the home, placed for adoption, legal
30 guardianship, or in another planned permanent living
31 arrangement.

32 (9) Whether the child has any siblings under the court's
33 jurisdiction, and, if any siblings exist, all of the following:

34 (A) The nature of the relationship between the child and his or
35 her siblings.

36 (B) The appropriateness of developing or maintaining the
37 sibling relationships pursuant to Section 16002.

38 (C) If the siblings are not placed together in the same home,
39 why the siblings are not placed together and what efforts are being

1 made to place the siblings together, or why those efforts are not
2 appropriate.

3 (D) If the siblings are not placed together, the frequency and
4 nature of the visits between siblings.

5 (E) The impact of the sibling relationships on the child's
6 placement and planning for legal permanence.

7 The factors the court may consider as indicators of the nature of
8 the child's sibling relationships include, but are not limited to,
9 whether the siblings were raised together in the same home,
10 whether the siblings have shared significant common experiences
11 or have existing close and strong bonds, whether either sibling
12 expresses a desire to visit or live with his or her sibling, as
13 applicable, and whether ongoing contact is in the child's best
14 emotional interests.

15 (10) For a child who is 16 years of age or older, the services
16 needed to assist the child to make the transition from foster care
17 to independent living.

18 The reviewing body shall determine whether or not reasonable
19 efforts to make and finalize a permanent placement for the child
20 have been made.

21 Each licensed foster family agency shall submit reports for each
22 child in its care, custody, and control to the court concerning the
23 continuing appropriateness and extent of compliance with the
24 child's permanent plan, the extent of compliance with the case
25 plan, and the type and adequacy of services provided to the child.

26 Unless their parental rights have been permanently terminated,
27 the parent or parents of the child are entitled to receive notice of,
28 and participate in, those hearings. It shall be presumed that
29 continued care is in the best interests of the child, unless the parent
30 or parents prove, by a preponderance of the evidence, that further
31 efforts at reunification are the best alternative for the child. In
32 those cases, the court may order that further reunification services
33 to return the child to a safe home environment be provided to the
34 parent or parents for a period not to exceed six months.

35 (f) At the review conducted by the court and held at least every
36 six months, regarding a child for whom the court has ordered
37 parental rights terminated and who has been ordered placed for
38 adoption, the county welfare department shall prepare and present
39 to the court a report describing the following:

40 (1) The child's present placement.

1 (2) The child's current physical, mental, emotional, and
2 educational status.

3 (3) If the child has not been placed with a prospective adoptive
4 parent or guardian, identification of individuals who are important
5 to the child and actions necessary to maintain the child's
6 relationship with those individuals. The agency shall ask every
7 child who is 10 years of age or older to identify any individuals
8 who are important to him or her, consistent with the child's best
9 interest, and may ask any child who is 10 years of age to provide
10 that information as appropriate. The agency shall make efforts to
11 identify other individuals who are important to the child.

12 (4) Whether the child has been placed with a prospective
13 adoptive parent or parents.

14 (5) Whether an adoptive placement agreement has been signed
15 and filed.

16 (6) If the child has not been placed with a prospective adoptive
17 parent or parents, the efforts made to identify an appropriate
18 prospective adoptive parent or legal guardian, including, but not
19 limited to, child specific recruitment *efforts* and listing on an
20 adoption exchange.

21 (7) Whether the final adoption order should include provisions
22 for postadoptive sibling contact pursuant to Section 366.29.

23 (8) The progress of the search for an adoptive placement if one
24 has not been identified.

25 (9) Any impediments to the adoption or the adoptive
26 placement.

27 (10) The anticipated date by which the child will be adopted,
28 or placed in an adoptive home.

29 (11) The anticipated date by which an adoptive placement
30 agreement will be signed.

31 (12) Recommendations for court orders that will assist in the
32 placement of the child for adoption or in the finalization of the
33 adoption.

34 The court shall determine whether or not reasonable efforts to
35 make and finalize a permanent placement for the child have been
36 made.

37 The court shall make appropriate orders to protect the stability
38 of the child and to facilitate and expedite the permanent placement
39 and adoption of the child.

(g) At the review held pursuant to subdivision (d) for a child in long-term foster care, the court shall consider all permanency planning options for the child including whether the child should be returned to the home of the parent, placed for adoption, or appointed a legal guardian, or, if compelling reasons exist for finding that none of the foregoing options are in the best interest of the child, whether the child should be placed in another planned permanent living arrangement. The court shall order that a hearing be held pursuant to Section 366.26 unless it determines by clear and convincing evidence, that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is being returned to the home of the parent, the child is not a proper subject for adoption, or no one is willing to accept legal guardianship. If the licensed county adoption agency, or the department when it is acting as an adoption agency in counties that are not served by a county adoption agency, has determined it is unlikely that the child will be adopted or one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, that fact shall constitute a compelling reason for purposes of this subdivision. Only upon that determination may the court order that the child remain in foster care, without holding a hearing pursuant to Section 366.26.

(h) If, as authorized by subdivision (g), the court orders a hearing pursuant to Section 366.26, the court shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment as provided for in subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22. A hearing held pursuant to Section 366.26 shall be held no later than 120 days from the date of the 12-month review at which it is ordered, and at that hearing the court shall determine whether adoption, legal guardianship, or long-term foster care is the most appropriate plan for the child.

SEC. 9. Section 391 of the Welfare and Institutions Code is amended to read:

391. At any hearing to terminate jurisdiction over a dependent child who has reached the age of majority the county welfare department shall do both of the following:

1 (a) Ensure that the child is present in court, unless the child does
2 not wish to appear in court, or document efforts by the county
3 welfare department to locate the child when the child is not
4 available.

5 (b) Submit a report verifying that the following information,
6 documents, and services have been provided to the child:

7 (1) Written information concerning the child's dependency
8 case, including his or her family history and placement history, the
9 whereabouts of any siblings under the jurisdiction of the juvenile
10 court, unless the court determines that sibling contact would
11 jeopardize the safety or welfare of the sibling, directions on how
12 to access the documents the child is entitled to inspect under
13 Section 827, and the date on which the jurisdiction of the juvenile
14 court would be terminated.

15 (2) The following documents, where applicable: social security
16 card, certified birth certificate, identification card, as described in
17 Section 13000 of the Vehicle Code, death certificate of parent or
18 parents, and proof of citizenship or residence.

19 (3) Assistance in completing an application for Medi-Cal or
20 assistance in obtaining other health insurance; referral to
21 transitional housing, if available, or assistance in securing other
22 housing; and assistance in obtaining employment or other
23 financial support.

24 (4) Assistance in applying for admission to college or to a
25 vocational training program or other educational institution and in
26 obtaining financial aid, where appropriate.

27 (5) Assistance in maintaining relationships with individuals
28 who are important to the child, based on the child's best interests.

29 (c) The court may continue jurisdiction if it finds that the
30 county welfare department has not met the requirements of
31 subdivision (b) and that termination of jurisdiction would be
32 harmful to the best interests of the child. If the court determines
33 that continued jurisdiction is warranted pursuant to this section,
34 the continuation shall only be ordered for that period of time
35 necessary for the county welfare department to meet the
36 requirements of subdivision (b). This section shall not be
37 construed to limit the discretion of the juvenile court to continue
38 jurisdiction for other reasons. The court may terminate jurisdiction
39 if the county welfare department has offered the required services,

1 and the child either has refused the services or, after reasonable
2 efforts by the county welfare department, cannot be located.

3 (d) The Judicial Council shall develop and implement
4 standards, and develop and adopt appropriate forms, necessary to
5 implement this section.

6 SEC. 10. Section 10609.4 of the Welfare and Institutions
7 Code is amended to read:

8 10609.4. (a) On or before July 1, 2000, the State Department
9 of Social Services, in consultation with county and state
10 representatives, foster youth, and advocates, shall do both of the
11 following:

12 (1) Develop statewide standards for the implementation and
13 administration of the Independent Living Program established
14 pursuant to the federal Consolidated Omnibus Budget
15 Reconciliation Act of 1985 (Public Law 99-272).

16 (2) Define the outcomes for the Independent Living Program
17 and the characteristics of foster youth enrolled in the program for
18 data collection purposes.

19 (b) Each county department of social services shall include in
20 its annual Independent Living Program report both of the
21 following:

22 (1) An accounting of federal and state funds allocated for
23 implementation of the program. Expenditures shall be related to
24 the specific purposes of the program. Program purposes may
25 include, but are not limited to, all of the following:

26 (A) Enabling participants to seek a high school diploma or its
27 equivalent or to take part in appropriate vocational training, and
28 providing job readiness training and placement services, or
29 building work experience and marketable skills, or both.

30 (B) Providing training in daily living skills, budgeting, locating
31 and maintaining housing, and career planning.

32 (C) Providing for individual and group counseling.

33 (D) Integrating and coordinating services otherwise available
34 to participants.

35 (E) Providing each participant with a written transitional
36 independent living plan that will be based on an assessment of his
37 or her needs, that includes information provided by persons who
38 have been identified by the participant as important to the
39 participant, and that will be incorporated into his or her case plan.

1 (F) Providing participants with other services and assistance
2 designed to improve independent living.

3 (G) Convening persons who have been identified by the
4 participant as important to him or her for the purpose of providing
5 information to be included in his or her written transitional
6 independent living plan.

7 (2) A detail of the characteristics of foster youth enrolled in
8 their independent living programs and the outcomes achieved
9 based on the information developed by the department pursuant to
10 subdivision (a).

11 (c) In consultation with the department, a county may use
12 different methods and strategies to achieve the standards and
13 outcomes of the Independent Living Program developed pursuant
14 to subdivision (a).

15 (d) In consultation with the County Welfare Directors
16 Association, the California Youth Connection, and other
17 stakeholders, the department shall develop and adopt emergency
18 regulations in accordance with Section 11346.1 of the
19 Government Code that counties shall be required to meet when
20 administering the Independent Living Program and that are
21 achievable within existing program resources. The initial adoption
22 of emergency regulations and one readoption of the initial
23 regulations shall be deemed to be an emergency and necessary for
24 the immediate preservation of the public peace, health and safety,
25 or general welfare. Initial emergency regulations and the first
26 readoption of those regulations shall be exempt from review by the
27 Office of Administrative Law. The initial emergency regulations
28 and the first readoption of those regulations authorized by this
29 subdivision shall be submitted to the Office of Administrative Law
30 for filing with the Secretary of State and each shall remain in effect
31 for no more than 180 days.

32 SEC. 11. Section 16206 of the Welfare and Institutions Code
33 is amended to read:

34 16206. (a) The purpose of the program is to develop and
35 implement statewide coordinated training programs designed
36 specifically to meet the needs of county child protective ~~service~~
37 ~~services~~ social workers assigned emergency response, family
38 maintenance, family reunification, permanent placement, and
39 adoption responsibilities. It is the intent of the Legislature that the
40 program include training for other agencies under contract with

1 county welfare departments to provide child welfare services. In
2 addition, the program shall provide training programs for persons
3 defined as a mandated reporter pursuant to the Child Abuse and
4 Neglect Reporting Act, Article 2.5 (commencing with Section
5 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code. The
6 program shall provide the services required in this section to the
7 extent possible within the total allocation. If allocations are
8 insufficient, the department, in consultation with the grantee or
9 grantees and the Child Welfare Training Advisory Board, shall
10 prioritize the efforts of the program, giving primary attention to
11 the most urgently needed services. However, county child
12 protective ~~service~~ *services* social workers assigned emergency
13 response responsibilities shall receive first priority for training
14 pursuant to this act.

15 (b) The training program shall provide practice-relevant
16 training for mandated child abuse reporters and all members of the
17 child welfare delivery system that will address critical issues
18 affecting the well-being of children, and shall develop curriculum
19 materials and training resources for use in meeting staff
20 development needs of mandated child abuse reporters and child
21 welfare personnel in public and private agency settings.

22 (c) The training provided pursuant to this section shall include
23 all of the following:

- 24 (1) Crisis intervention.
- 25 (2) Investigative techniques.
- 26 (3) Rules of evidence.
- 27 (4) Indicators of abuse and neglect.
- 28 (5) Assessment criteria, including the application of guidelines
29 for assessment of relatives for placement according to the criteria
30 described in Section 361.3.
- 31 (6) Intervention strategies.
- 32 (7) Legal requirements of child protection, including
33 requirements of child abuse reporting laws.
- 34 (8) Case management.
- 35 (9) Use of community resources.
- 36 (10) Information regarding the dynamics and effects of
37 domestic violence upon families and children, including
38 indicators and dynamics of teen dating violence.
- 39 (11) Posttraumatic stress disorder and the causes, symptoms,
40 and treatment of posttraumatic stress disorder in children.

(12) The importance of maintaining relationships with individuals who are important to a child in out-of-home placement, including methods to identify those individuals, consistent with the child's best interests, including, but not limited to, asking the child about individuals who are important, and ways to maintain and support those relationships.

(d) The training provided pursuant to this section may also include any or all of the following:

(1) Child development and parenting.

(2) Intake, interviewing, and initial assessment.

(3) Casework and treatment.

(4) Medical aspects of child abuse and neglect.

(e) Prior to January 1, 1989, the department shall provide the Legislative Analyst and the Select Committee on Children and Youth with a listing of the counties participating in the program, including the number of persons trained in each county.

(f) The training program shall assess the program's performance at least annually and forward it to the State Department of Social Services for an evaluation and report to the Legislative Analyst. The first report shall be forwarded to the Legislative Analyst no later than January 1, 1990, and on the first of January in any subsequent years. The assessment shall include at minimum the following:

(1) The number of persons trained.

(2) The type of training provided.

(3) The degree to which the training is perceived by participants as useful in practice.

(g) The training program shall provide practice-relevant training to county child protective ~~service~~ *services* social workers who screen referrals for child abuse or neglect and for all workers assigned to provide emergency response, family maintenance, family reunification, and permanent placement services. The training shall be developed in consultation with the Child Welfare Training Advisory Board and domestic violence victims' advocates and other public and private agencies that provide programs for victims of domestic violence or programs of intervention for perpetrators.

SEC. 12. Section 16500.1 of the Welfare and Institutions Code is amended to read:

1 16500.1. (a) It is the intent of the Legislature to use the
2 strengths of families and communities to serve the needs of
3 children who are alleged to be abused or neglected, as described
4 in Section 300, to reduce the necessity for removing these children
5 from their home, to encourage speedy reunification of families
6 when it can be safely accomplished, to locate permanent homes
7 and families for children who cannot return to their biological
8 families, to reduce the number of placements experienced by these
9 children, to ensure that children leaving the foster care system have
10 support within their communities, to improve the quality and
11 homelike nature of out-of-home care, and to foster the educational
12 progress of children in out-of-home care.

13 (b) In order to achieve the goals specified in subdivision (a), the
14 state shall encourage the development of approaches to child
15 protection that do all of the following:

16 (1) Allow children to remain in their own schools, in close
17 proximity to their families.

18 (2) Increase the number and quality of foster families available
19 to serve these children.

20 (3) Use a team approach to foster care that permits the
21 biological and foster family to be part of that team.

22 (4) Use team decisionmaking in case planning.

23 (5) Provide support to foster children and foster families.

24 (6) Ensure that licensing requirements do not create barriers to
25 recruitment of qualified, high quality foster homes.

26 (7) Provide training for foster parents and professional staff on
27 working effectively with families and communities.

28 (8) Encourage foster parents to serve as mentors and role
29 models for biological parents.

30 (9) Use community resources, including community-based
31 agencies and volunteer organizations, to assist in developing
32 placements for children and to provide support for children and
33 their families.

34 (10) Ensure an appropriate array of placement resources for
35 children in need of out-of-home care.

36 (11) Ensure that no child leaves foster care without a life-long
37 connection to a committed adult.

38 (c) In carrying out the requirements of subdivision (b), the
39 department shall do all of the following:

(1) Consider the existing array of program models provided in statute and in practice, including, but not limited to, wraparound services, as defined in Section 18251, children's systems of care, as provided for in Section 5852, the Oregon Family Unity or Santa Clara County Family Conference models, which include family conferences at key points in the casework process, such as when out-of-home placement or return home are considered, and the Annie E. Casey Foundation Family to Family initiative, which uses team decisionmaking in case planning, community-based placement practices requiring that children be placed in foster care in the communities where they resided prior to placement, and involve foster families as team members in family reunification efforts.

(2) Ensure that emergency response services, family maintenance services, family reunification services, and permanent placement services are coordinated with the implementation of the models described in paragraph (1).

(3) Ensure consistency between child welfare services program regulations and the program models described in paragraph (1).

(d) The department, in conjunction with stakeholders, including, but not limited to, county child welfare services agencies, foster parent and group home associations, the California Youth Connection, and other child advocacy groups, shall review the existing child welfare services program regulations to ensure that these regulations are consistent with the legislative intent specified in subdivision (a). This review shall also determine how to incorporate the best practice guidelines for assessment of children and families receiving child welfare and foster care services, as required by Section 16501.2.

(e) The department shall report to the Legislature on the results of the actions taken under this section on or before January 1, 2002.

SEC. 13. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1. (a) The Legislature finds and declares that the foundation and central unifying tool in child welfare services is the case plan.

(b) The Legislature further finds and declares that a case plan ensures that the child receives protection and safe and proper care and case management, and that services are provided to the child and parents or other caretakers as appropriate in order to improve

1 conditions in the parent's home, to facilitate the safe return of the
2 child to a safe home or the permanent placement of the child, and
3 to address the needs of the child while in foster care. A case plan
4 shall be based upon the principles of this section and shall
5 document that a preplacement assessment of the service needs of
6 the child and family, and preplacement preventive services, have
7 been provided, and that reasonable efforts to prevent out-of-home
8 placement have been made. In determining the reasonable services
9 to be offered or provided, the child's health and safety shall be the
10 paramount concerns. Reasonable services shall be offered or
11 provided to make it possible for a child to return to a safe home
12 environment, unless, pursuant to subdivisions (b) and (e) of
13 Section 361.5, the court determines that reunification services
14 shall not be provided. If reasonable services are not ordered, or are
15 terminated, reasonable efforts shall be made to place the child in
16 a timely manner in accordance with the permanent plan and to
17 complete all steps necessary to finalize the permanent placement
18 of the child.

19 (c) When out-of-home placement is used to attain case plan
20 goals, the decision regarding choice of placement shall be based
21 upon selection of a safe setting that is the least restrictive or most
22 familylike and the most appropriate setting that is available and in
23 close proximity to the parent's home, consistent with the selection
24 of the environment best suited to meet the child's special needs and
25 best interest, or both. The selection shall consider, in order of
26 priority, placement with relatives, tribal members, and foster
27 family, group care, and residential treatment pursuant to Section
28 7950 of the Family Code.

29 (d) A written case plan shall be completed within 30 days of the
30 initial removal of the child or of the in-person response required
31 under subdivision (f) of Section 16501 if the child has not been
32 removed from his or her home, or by the date of the dispositional
33 hearing pursuant to Section 358, whichever occurs first. The case
34 plan shall be updated, as the service needs of the child and family
35 dictate. At a minimum, the case plan shall be updated in
36 conjunction with each status review hearing conducted pursuant
37 to Section 366.21, and the hearing conducted pursuant to Section
38 366.26, but no less frequently than once every six months. Each
39 updated case plan shall include a description of the services that



1 have been provided to the child under the plan and an evaluation
2 of the appropriateness and effectiveness of those services.

3 (e) The child welfare services case plan shall be comprehensive
4 enough to meet the juvenile court dependency proceedings
5 requirements pursuant to Article 6 (commencing with Section
6 300) of Chapter 2 of Part 1 of Division 2.

7 (f) The case plan shall be developed as follows:

8 (1) The case plan shall be based upon an assessment of the
9 circumstances that required child welfare services intervention.

10 (2) The case plan shall identify specific goals and the
11 appropriateness of the planned services in meeting those goals.

12 (3) The case plan shall identify the original allegations of abuse
13 or neglect, as defined in Article 2.5 (commencing with Section
14 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
15 conditions cited as the basis for declaring the child a dependent of
16 the court pursuant to Section 300, or all of these, and the other
17 precipitating incidents that led to child welfare services
18 intervention.

19 (4) The case plan shall include a description of the schedule of
20 the social worker contacts with the child and the family or other
21 caretakers. The frequency of these contacts shall be in accordance
22 with regulations adopted by the State Department of Social
23 Services. If the child has been placed in foster care out of state, the
24 county social worker or a social worker on the staff of the social
25 service agency in the state in which the child has been
26 placed shall visit the child in a foster family home or the home of
27 a relative at least every 12 months and submit a report to the court
28 on each visit. For children in out-of-state group home facilities,
29 visits shall be conducted at least monthly, pursuant to Section
30 16516.5. At least once every six months, at the time of a regularly
31 scheduled social worker contact with the foster child, the child's
32 social worker shall inform the child of his or her rights as a foster
33 child, as specified in Section 16001.9. The social worker shall
34 provide the information to the child in a manner appropriate to the
35 age or developmental level of the child.

36 (5) When out-of-home services are used, the frequency of
37 contact between the natural parents or legal guardians and the child
38 shall be specified in the case plan. The frequency of those contacts
39 shall reflect overall case goals, and consider other principles
40 outlined in this section.

1 (6) When out-of-home placement is made, the case plan shall
 2 include provisions for the development and maintenance of sibling
 3 relationships as specified in subdivisions (b), (c), and (d) of
 4 Section 16002. If appropriate, when siblings who are dependents
 5 of the juvenile court are not placed together, the social worker for
 6 each child, if different, shall communicate with each of the other
 7 social workers and ensure that the child's siblings are informed of
 8 significant life events that occur within their extended family.
 9 Unless it has been determined that it is inappropriate in a particular
 10 case to keep siblings informed of significant life events that occur
 11 within the extended family, the social worker shall determine the
 12 appropriate means and setting for disclosure of this information to
 13 the child commensurate with the child's age and emotional
 14 well-being. These significant life events shall include, but shall not
 15 be limited to, the following:

16 (A) The death of an immediate relative.

17 (B) The birth of a sibling.

18 (C) Significant changes regarding a dependent child, unless the
 19 child objects to the sharing of the information with his or her
 20 siblings, including changes in placement, major medical or mental
 21 health diagnoses, treatments, or hospitalizations, arrests, and
 22 changes in the permanent plan.

23 (7) When out-of-home placement is made in a foster family
 24 home, group home or other child care institution that is either a
 25 substantial distance from the home of the child's parent or out of
 26 state, the case plan shall specify the reasons why that placement is
 27 in the best interest of the child. When an out-of-state group home
 28 placement is recommended or made, the case plan shall, in
 29 addition, specify compliance with Section 7911.1 of the Family
 30 Code.

31 (8) When out-of-home services are used, or when parental
 32 rights have been terminated and the case plan is placement for
 33 adoption, the case plan shall include a recommendation regarding
 34 the appropriateness of unsupervised visitation between the child
 35 and any of the child's siblings. This recommendation shall include
 36 a statement regarding the child's and the siblings' willingness to
 37 participate in unsupervised visitation. If the case plan includes a
 38 recommendation for unsupervised sibling visitation, the plan shall
 39 also note that information necessary to accomplish this visitation
 40 has been provided to the child or to the child's siblings.



(9) When out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail. The plan shall also consider the importance of developing and maintaining sibling relationships pursuant to Section 16002.

(10) When out-of-home services are used, the child has been in care for at least 12 months, and the goal is not adoptive placement, the case plan shall include documentation of the compelling reason or reasons why termination of parental rights is not in the child's best interest. A determination completed or updated within the past 12 months by the department when it is acting as an adoption agency or by a licensed adoption agency that it is unlikely that the child will be adopted, or that one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, shall be deemed a compelling reason.

(11) (A) Parents and legal guardians shall have an opportunity to review the case plan, sign it whenever possible, and then shall receive a copy of the plan. In any voluntary service or placement agreement, the parents or legal guardians shall be required to review and sign the case plan. Whenever possible, parents and legal guardians shall participate in the development of the case plan.

(B) Parents and legal guardians shall be advised that, pursuant to Section 1228.1 of the Evidence Code, neither their signature on the child welfare services case plan nor their acceptance of any services prescribed in the child welfare services case plan shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law. However, they shall also be advised that the parent's or guardian's failure to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used in any hearing held pursuant to Section 366.21 or 366.22 as evidence.

(12) The case plan shall be included in the court report and shall be considered by the court at the initial hearing and each review hearing. Modifications to the case plan made during the period between review hearings need not be approved by the court if the casework supervisor for that case determines that the modifications further the goals of the plan. When out-of-home services are used with the goal of family reunification, the case

1 plan shall consider and describe the application of subdivision (b)
2 of Section 11203.

3 (13) When the case plan has as its goal for the child a permanent
4 plan of adoption or placement in another permanent home, it shall
5 include documentation of the steps the agency is taking to find an
6 adoptive family or other permanent living arrangements for the
7 child; to place the child with an adoptive family, an appropriate
8 and willing relative, a legal guardian, or in another planned
9 permanent living arrangement; and to finalize the adoption or legal
10 guardianship. At a minimum, the documentation shall include
11 child specific recruitment efforts, such as the use of state, regional,
12 and national adoption exchanges, including electronic exchange
13 systems, when the child has been freed for adoption.

14 (14) When appropriate, for a child who is 16 years of age or
15 older, the case plan shall include a written description of the
16 programs and services that will help the child prepare for the
17 transition from foster care to independent living. The case plan
18 shall be developed with the child and individuals identified as
19 important to the child, and shall include steps the agency is taking
20 to ensure that the child has a connection to a caring adult.

21 (g) If the court finds, after considering the case plan, that
22 unsupervised sibling visitation is appropriate and has been
23 consented to, the court shall order that the child or the child's
24 siblings, and the child's prospective adoptive parents, if
25 applicable, be provided with information necessary to accomplish
26 this visitation. Nothing in this section shall be construed to require
27 or prohibit the social worker's facilitation, transportation, or
28 supervision of visits between the child and his or her siblings.

29 (h) The case plan documentation on sibling placements
30 required under this section shall not require modification of
31 existing case plan forms until the Child Welfare Services Case
32 Management System is implemented on a statewide basis.

33 (i) When a child who is 10 years of age or older has been in
34 out-of-home placement with a nonrelative for six months or longer
35 from the date the child entered foster care, the case plan shall
36 include an identification of individuals, other than the child's
37 siblings, who are important to the child and actions necessary to
38 maintain the child's relationship with those individuals, provided
39 that those relationships are in the best interest of the child. The
40 social worker shall ask every child who is 10 years of age or older

1 who is not placed with a relative to identify any individuals other
2 than the child's siblings who are important to the child, and may
3 ask any child who is younger than 10 years of age to provide that
4 information, as appropriate. The social worker shall make efforts
5 to identify other individuals who are important to the child,
6 consistent with the child's best interests.

7 (j) The department, in consultation with the County Welfare
8 Directors Association and other advocates, shall develop
9 standards and guidelines for a model relative placement search and
10 assessment process based on the criteria established in Section
11 361.3. These guidelines shall be incorporated in the training
12 described in Section 16206. These model standards and guidelines
13 shall be developed by March 1, 1999.

14 SEC. 14. Notwithstanding Section 17610 of the Government
15 Code, if the Commission on State Mandates determines that this
16 act contains costs mandated by the state, reimbursement to local
17 agencies and school districts for those costs shall be made pursuant
18 to Part 7 (commencing with Section 17500) of Division 4 of Title
19 2 of the Government Code. If the statewide cost of the claim for
20 reimbursement does not exceed one million dollars (\$1,000,000),
21 reimbursement shall be made from the State Mandates Claims
22 Fund.

